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ATTORNEY DOCKET NO. FIRST NAMED INVENTOR APPLICATION NO. FILING DATE CONFIRMATION NO. 09/867,924 05/30/2001 Blake J. Roessler UM-06191 7554 **EXAMINER** 7590 01/27/2006 MEDLEN & CARROLL, LLP FUBARA, BLESSING M 101 Howard Street ART UNIT PAPER NUMBER Suite 350 San Francisco, CA 94105 1618

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	· · · · · · · · · · · · · · · · · · ·	Application No.	Applicant(s)
Office Action Summary		09/867,924	ROESSLER ET AL.
		Examiner	Art Unit
	•	Blessing M. Fubara	1618
	The MAILING DATE of this communication app		
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).			
Status			
1)⊠	Responsive to communication(s) filed on 31 O	<u>ctober 2005</u> .	
2a) <u></u> □	This action is <b>FINAL</b> . 2b)⊠ This	action is non-final.	
3)[	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is		
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4)  Claim(s) 25-59 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) 25-59 is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and/or election requirement.			
Application Papers			
<ul> <li>9) The specification is objected to by the Examiner.</li> <li>10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</li> <li>11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</li> </ul>			
Priority under 35 U.S.C. § 119			
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>			
Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)			
2) Notice 3) Information	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) er No(s)/Mail Date	Paper No(s)/Mail Da	

Art Unit: 1618

## **DETAILED ACTION**

Examiner acknowledges receipt of response to the election/restriction requirement and remarks filed 10/31/05. Claims 24-59 are pending.

## Election/Restrictions

Applicants elected Group II and further elected growth factor as the biologically active agent, a biocompatible membrane in response to the election/restriction requirement. However, applicants elected Group 1 without indicating traverse or without traverse and thus it is assumed that the election of Group I is without traverse. Examiner also agrees with applicants that upon identification of allowable subject matter, the search will be extended to the non-elected species within the group. Examiner further acknowledges applicant's identification of claims 25-32, 34-43, 50-52, 55-57 and 59 as reading on the elected invention.

The search is however extended to DNA as the biological agent.

## Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 25-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Bielinska et al. ("Application of membrane-based dendrimer/DNA complexes for solid phase transfection in vitro and in vovo," in Biomaterials, 21 (2000), pages 877-887).

...

Bielinska discloses a composition that comprises a biocompatible membrane that is associated with dendrimer, that is desiccated and that is used to contact skin tissue (see pages 877-887).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Blessing Fubara Albubara Patent Examiner

Patent Examiner

Tech. Center 1600